

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL CASE NO. 3:06cv422

COMMERCIAL DEFEASANCE, LLC,)

Plaintiff,)

vs.)

**GREG STRANGER and CAPITAL
DEFEASANCE GROUP, LLC,**)

Defendants.)

ORDER

THIS MATTER came before the Court by transfer on September 27, 2007.

The Defendant Greg Stranger filed Motion to Dismiss [Doc. 7] on October 30, 2006, seeking dismissal of the Plaintiff's Complaint pursuant to Federal Rules of Civil Procedure 12(b)(2), 12(b)(3), and 12(b)(6).

Subsequently, the Court granted the Plaintiff leave to amend its complaint, and an Amended Complaint was filed on March 13, 2007 [Doc. 24].

Thereafter, the Defendant Stranger filed a second Motion to Dismiss [Doc. 37], seeking dismissal of the Plaintiff's Amended Complaint on the same grounds asserted in the original Motion to Dismiss. Magistrate Judge

Keesler recommended the Motion to Dismiss Plaintiff's Amended Complaint be denied on June 21, 2007. Prior to transferring this case to the undersigned, Judge Conrad approved the Magistrate Judge's Memorandum and Recommendation and denied the Defendant's second Motion to Dismiss [Doc. 76].

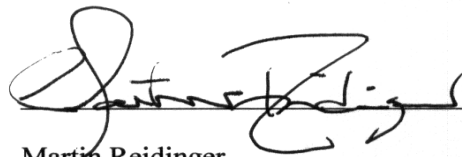
A timely amended pleading supersedes the original pleading, and therefore, any motions directed at the original pleading are rendered moot. See Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) ("The general rule . . . is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect."); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot defendants' motions to dismiss original complaint on the grounds that amended complaint superseded original complaint). In the present case, the Plaintiff's original Complaint was superseded by the filing of the Plaintiff's Amended Complaint on March 13, 2007. The Defendant's first Motion to Dismiss was directed at the original Complaint, and therefore, was rendered moot by the filing of the Plaintiff's Amended Complaint. The Court further notes that the Defendant's first Motion to Dismiss raises the

same grounds for dismissal as addressed in his second Motion to Dismiss, which this Court has already denied.

For these reasons, **IT IS HEREBY ORDERED** that the Defendant Greg Stranger's Motion to Dismiss [Doc. 7] is **DENIED AS MOOT**.

IT IS SO ORDERED.

Signed: October 12, 2007


Martin Reidinger
United States District Judge

